

AMENDED IN ASSEMBLY AUGUST 24, 2002

AMENDED IN ASSEMBLY AUGUST 19, 2002

AMENDED IN ASSEMBLY JUNE 18, 2002

AMENDED IN SENATE MAY 2, 2002

**SENATE BILL**

**No. 1952**

**Introduced by Senator Figueroa**

**(Coauthors: Senators Johannessen and Polanco)**

(Coauthors: Assembly Members Aanestad, Correa, and Thomson)

February 22, 2002

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An act to amend Sections 144, 473.1, 9607, 9663, 9731, 9747, 9765, and 9786 of, and to add Sections 7612, 7746, 9605.1, 9605.2, 9610, 9723, 9723.1, 9723.2, 9750.5, 9764.1, 9764.2, 9764.3, 9787.2, 9787.3, and ~~9784.4~~ 9787.4 to, the Business and Professions Code, relating to professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1952, as amended, Figueroa. Cemetery and Funeral Bureau.

Existing law creates a Joint Legislative Sunset Review Committee and authorizes it to review and evaluate various boards and commissions having duties and responsibilities relating to professions and occupations.

This bill would provide for the committee review and evaluations of the Cemetery and Funeral Bureau in the Department of Consumer Affairs.

Existing law provides for the regulation of funeral establishments, embalmers, cemeteries, and crematories by the Cemetery and Funeral Bureau in the Department of Consumer Affairs. Existing law requires

a cemetery authority to display and make available to certain consumers a copy of the consumer guide for funeral and cemetery purchases.

The bill would require a cemetery authority or a cemetery licensee to provide a copy of the consumer guide to a consumer prior to drafting a contract for cemetery goods or services.

Existing law requires a person who is delinquent in renewing a cemetery license or a crematory license or a cremated remains disposer registration to pay the fee plus an additional 50% of the renewal fee, but no more than the renewal fee plus \$25.

This bill would set the delinquency fee at 150% of the timely fee, but not less than the renewal fee plus \$25.

Existing law regulates preneed contracts for funeral services, and requires a funeral establishment to file an annual report with the bureau.

This bill would require a funeral establishment that is exempt from filing an annual report or whose preneed trust funds are reported in a combined preneed trust report, to file a declaration of nonreporting status each year.

The bill would require the bureau to conduct a study on the need to regulate 3rd-party casket retailers and report to the department and the Joint Legislative Sunset Review Committee on or before September 1, 2004.

Existing law provides for the examination of applicants for a cemetery license or a crematory license by the bureau.

This bill would define a cemetery manager and a crematory manager. The bill would require a licensed cemetery to employ a cemetery manager to manage, direct, and supervise the cemetery and would require a crematory to employ a crematory manager to manage, direct, and supervise the crematory. The bill would require, among other things, a licensed cemetery manager and a licensed crematory manager to be at least 18 years of age and a resident of the state. The bill would provide that the fee for a crematory manager examination and reexamination shall be no more than \$500, and that the fee for a cemetery manager examination and reexamination shall be no more than \$900. The bill would additionally provide specified fees for the licensure and renewal of a crematory manager and a cemetery manager. The bill would provide that the fee for changing the name of a designated manager *or to request approval to share a designated manager* shall not be more than \$50. Because these items would lead to an increase in fees being deposited into the Cemetery Fund, which is continuously appropriated, the bill would make an appropriation.



Because a violation of the provisions regulating funeral establishments is a crime, this bill would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 144 of the Business and Professions  
2 Code is amended to read:  
3 144. (a) Notwithstanding any other provision of law, an  
4 agency designated in subdivision (b) shall require an applicant to  
5 furnish to the agency a full set of fingerprints for purposes of  
6 conducting criminal history record checks. Any agency  
7 designated in subdivision (b) may obtain and receive, at its  
8 discretion, criminal history information from the Department of  
9 Justice and the United States Federal Bureau of Investigation.  
10 (b) Subdivision (a) applies to the following boards or  
11 committees:  
12 (1) California Board of Accountancy.  
13 (2) State Athletic Commission.  
14 (3) Board of Behavioral Sciences.  
15 (4) Court Reporters Board of California.  
16 (5) State Board of Guide Dogs for the Blind.  
17 (6) California State Board of Pharmacy.  
18 (7) Board of Registered Nursing.  
19 (8) Veterinary Medical Board.  
20 (9) Registered Veterinary Technician Committee.  
21 (10) Board of Vocational Nursing and Psychiatric Technicians.  
22 (11) Respiratory Care Board of California.  
23 (12) Hearing Aid Dispensers Advisory Commission.  
24 (13) Physical Therapy Board of California.  
25 (14) Physician Assistant Committee of the Medical Board of  
26 California.



1 (15) Speech-Language Pathology and Audiology Board.  
2 (16) Medical Board of California.  
3 (17) State Board of Optometry.  
4 (18) Acupuncture Board.  
5 (19) Cemetery and Funeral Bureau.  
6 (20) Bureau of Security and Investigative Services.  
7 (21) Division of Investigation.  
8 (22) Board of Psychology.  
9 (23) The California Board of Occupational Therapy.  
10 SEC. 2. Section 473.1 of the Business and Professions Code  
11 is amended to read:  
12 473.1. This division shall apply to all of the following:  
13 (a) Every board, as defined in Section 22, that is scheduled to  
14 become inoperative and to be repealed on a specified date as  
15 provided by the specific act relating to the board.  
16 (b) The Bureau for Postsecondary and Vocational Education.  
17 For purposes of this division, “board” includes the bureau.  
18 (c) The Cemetery and Funeral Bureau.  
19 SEC. 3. Section 7612 is added to the Business and Professions  
20 Code, to read:  
21 7612. The bureau shall do all of the following:  
22 (a) Conduct a comprehensive study of the need to regulate  
23 third-party casket retailers.  
24 (b) Report to the department and the Joint Legislative Sunset  
25 Review Committee on or before September 1, 2004, on the matter.  
26 SEC. 4. Section 7746 is added to the Business and Professions  
27 Code, to read:  
28 7746. (a) Notwithstanding any other provision of law, a  
29 funeral establishment that is otherwise exempt from the  
30 requirement of filing an annual preneed trust report or whose  
31 preneed trust funds are reported in a combined preneed annual  
32 preneed trust report, shall annually file a declaration of  
33 nonreporting status with the bureau.  
34 (b) The declaration shall be filed on or before May 1 of each  
35 year and shall also be filed upon the transfer of ownership or the  
36 cessation of business.  
37 (c) The declaration shall be filed on a form provided by the  
38 bureau and shall include, but shall not be limited to, both of the  
39 following:



(1) The basis upon which the funeral establishment is exempt from the annual trust reporting requirement.

(2) The specific kind and nature of the exempt preneed arrangements, if any, in which the funeral establishment engages.

(d) The declaration shall be verified by the funeral establishment's owner, a partner, or in the case of a corporation, by the president or vice president.

SEC. 5. Section 9605.1 is added to the Business and Professions Code, to read:

9605.1. (a) A cemetery manager is a person engaged in or conducting, or holding himself or herself out as engaged in those activities involved in, or incidental to, the maintaining, operating, or improving a cemetery licensed under this chapter, the interring of human remains, and the care, preservation, and embellishment of cemetery property.

(b) *For persons licensed pursuant to Section 9676, a cemetery manager is a person engaged in or conducting, or holding himself or herself out as engaged in those activities involved in, or incidental to, the following:*

(1) *The maintaining, operating, or improving of a cemetery licensed under this chapter.*

(2) *The interment of human remains.*

(3) *The care, preservation, and embellishment of cemetery property.*

(4) *Activities described in Section 9677.*

SEC. 6. Section 9605.2 is added to the Business and Professions Code, to read:

9605.2. A crematory manager is a person engaged in or conducting, or holding himself or herself out as engaged in those activities involved in, or incidental to, the maintaining, or operating a crematory licensed under this chapter, and the cremation of human remains.

SEC. 7. Section 9607 of the Business and Professions Code is amended to read:

9607. "Cemetery licensee" means any cemetery broker, cemetery salesperson, or cemetery manager.

SEC. 8. Section 9610 is added to the Business and Professions Code, to read:

9610. The bureau shall do both of the following:

1 (a) Conduct a comprehensive study of the need for the  
2 regulation of proprietary employees of religious corporations,  
3 churches, religious societies, and religious denominations.

4 (b) Report to the department and the Joint Legislative Sunset  
5 Review Committee on or before September 1, 2004, on the matter  
6 specified in subdivision (a).

7 SEC. 9. Section 9663 of the Business and Professions Code  
8 is amended to read:

9 9663. (a) The bureau shall make available to funeral  
10 establishments and cemetery authorities a copy of a consumer  
11 guide for funeral and cemetery purchases for purposes of  
12 reproduction and distribution. The funeral and cemetery guide that  
13 is approved by the bureau, in consultation with the funeral and  
14 cemetery industries and any other interested parties, shall be made  
15 available in printed form and electronically through the Internet.

16 (b) A cemetery authority shall prominently display and make  
17 available to any individual who, in person, inquires about funeral  
18 or cemetery purchases, a copy of the consumer guide for funeral  
19 and cemetery purchases, reproduced as specified in subdivision  
20 (a).

21 (c) Prior to drafting a contract for cemetery goods or services,  
22 the cemetery authority or cemetery licensee shall provide to the  
23 consumer, for retention, a copy of the consumer guide for funeral  
24 and cemetery purchases specified.

25 SEC. 10. Section 9723 is added to the Business and  
26 Professions Code, to read:

27 9723. A cemetery licensed under this chapter shall at all times  
28 employ a licensed cemetery manager to manage, supervise, and  
29 direct its operations. *Notwithstanding any other provision of this*  
30 *chapter, licensed cemeteries within close geographical proximity*  
31 *of each other may request the bureau to allow a licensed cemetery*  
32 *manager to manage, supervise, and direct the business or*  
33 *profession of more than one facility.*

34 (a) Every cemetery shall designate a licensed cemetery  
35 manager to manage the cemetery, and shall report the designation  
36 to the bureau within 10 days of the effective date. Any change in  
37 the designated manager shall be reported to the bureau within 10  
38 days.

39 (b) The designated cemetery manager shall be responsible for  
40 exercising direct supervision and control over the operations,

1 employees, and agents of the cemetery as is necessary to ensure  
2 full compliance with the applicable provisions of the Business and  
3 Professions Code, the Health and Safety Code, and any regulations  
4 adopted thereto. Failure of the designated cemetery manager or the  
5 licensed cemetery to exercise that supervision or control shall  
6 constitute a ground for disciplinary action.

7 (c) A cemetery may employ, in addition to the designated  
8 cemetery manager, additional licensed cemetery managers.  
9 However, only one licensed cemetery manager may be appointed  
10 as the designated cemetery manager of the cemetery.

11 SEC. 11. Section 9723.1 is added to the Business and  
12 Professions Code, to read:

13 9723.1. (a) Application for a cemetery manager license shall  
14 be made in writing on the form provided by the bureau, verified  
15 by the applicant, and filed at the principal office of the bureau. The  
16 application shall be accompanied by the fee fixed by this chapter.

17 (b) The applicant for a cemetery manager license shall be at  
18 least 18 years of age, possess a high school diploma or its  
19 equivalent, shall not have committed acts or crimes constituting  
20 grounds for denial of licensure under Section 480, shall  
21 demonstrate compliance with the training and experience  
22 requirements established by the bureau, and shall be a resident of  
23 this state.

24 (c) The bureau shall grant a cemetery manager license to any  
25 applicant who meets the requirements of this chapter and who has  
26 successfully passed the cemetery manager examination  
27 administered by the bureau.

28 (d) Notwithstanding subdivision (c), until July 1, 2004, the  
29 bureau shall grant a cemetery manager license to any applicant  
30 who meets the requirements of this chapter and can demonstrate  
31 that he or she has, prior to January 1, 2003, successfully passed the  
32 cemetery manager examination administered by the bureau. Any  
33 person who is eligible to obtain a cemetery manager license under  
34 this subdivision and who does not apply for a license by July 1,  
35 2004, shall apply for and successfully pass the examination.

36 SEC. 12. Section 9723.2 is added to the Business and  
37 Professions Code, to read:

38 9723.2. (a) No person shall engage in or conduct, or hold  
39 himself or herself out as engaging in or conducting, the activities



1 of a cemetery manager without holding a valid, unexpired  
2 cemetery manager license issued by the bureau.

3 (b) No licensed cemetery manager shall engage in or conduct,  
4 or hold himself or herself out as engaging in or conducting, the  
5 activities of a cemetery manager without being employed by, or  
6 without being a corporate officer of a licensed cemetery.

7 SEC. 13. Section 9731 of the Business and Professions Code  
8 is amended to read:

9 9731. If a person fails to apply for a license renewal, no  
10 renewal license shall be issued except upon payment of the  
11 delinquent renewal fee required under Section 9750.5.

12 No person who fails to renew his or her license within one year  
13 of the expiration date can engage in any of the activities authorized  
14 by a license unless he or she first files the application required for  
15 an original license, pays the original license fee, and otherwise  
16 complies with all of the provisions of this act pertaining to the  
17 issuance of an original license.

18 SEC. 14. Section 9747 of the Business and Professions Code  
19 is amended to read:

20 9747. If a person fails to apply for renewal of his or her  
21 cremated remains disposer registration prior to midnight of  
22 September 30th of the year for which the registration was issued,  
23 no renewal shall be issued except upon payment of the delinquent  
24 renewal fee required under Section 9750.5.

25 SEC. 15. Section 9750.5 is added to the Business and  
26 Professions Code, to read:

27 9750.5. The delinquent renewal fee for a license, registration,  
28 or certificate of authority under this chapter shall be 150 percent  
29 of the timely fee, but not less than the renewal fee plus twenty-five  
30 dollars (\$25).

31 SEC. 16. Section 9764.1 is added to the Business and  
32 Professions Code, to read:

33 9764.1. (a) The fee for a crematory manager examination  
34 and reexamination may not exceed five hundred dollars (\$500).

35 (b) The license fee to obtain a crematory manager license may  
36 not exceed one hundred dollars (\$100).

37 (c) The renewal fee for a crematory manager license may not  
38 exceed one hundred dollars (\$100).

39 SEC. 17. Section 9764.2 is added to the Business and  
40 Professions Code, to read:



1 9764.2. (a) The fee for a cemetery manager examination and  
2 reexamination may not exceed nine hundred dollars (\$900).

3 (b) The license fee to obtain a cemetery manager license may  
4 not exceed one hundred dollars (\$100).

5 (c) The renewal fee for a cemetery manager license may not  
6 exceed one hundred dollars (\$100).

7 SEC. 18. Section 9764.3 is added to the Business and  
8 Professions Code, to read:

9 9764.3. The fee for filing a report of a change of designated  
10 manager *or a request for approval to share a designated cemetery*  
11 *manager* shall not exceed fifty dollars (\$50).

12 SEC. 19. Section 9765 of the Business and Professions Code  
13 is amended to read:

14 9765. Every cemetery authority operating a cemetery shall  
15 pay an annual regulatory charge for each cemetery to be fixed by  
16 the bureau at not more than four hundred dollars (\$400). In  
17 addition to an annual regulatory charge for each cemetery, an  
18 additional quarterly charge of not more than eight dollars and fifty  
19 cents (\$8.50) for each burial, entombment, or inurnment made  
20 during the preceding quarter shall be paid until December 31,  
21 2007, to the bureau and these charges shall be deposited in the  
22 Cemetery Fund. If the cemetery authority performs a burial,  
23 entombment, or inurnment, and the cremation was performed at  
24 a crematory located on the grounds of the cemetery and under  
25 common ownership with the cemetery authority, the total of all  
26 additional charges shall be not more than eight dollars and fifty  
27 cents (\$8.50).

28 SEC. 20. Section 9786 of the Business and Professions Code  
29 is amended to read:

30 9786. Every crematory licensee operating a crematory  
31 pursuant to a license issued in compliance with this article shall  
32 pay an annual regulatory charge for each crematory, to be fixed by  
33 the bureau at not more than four hundred dollars (\$400). In  
34 addition to an annual regulatory charge for each crematory, every  
35 licensee operating a crematory pursuant to a license issued  
36 pursuant to this article shall pay until December 31, 2007, an  
37 additional charge of not more than eight dollars and fifty cents  
38 (\$8.50) per cremation made during the preceding quarter, which  
39 charges shall be deposited in the Cemetery Fund.

1 SEC. 21. Section 9787.2 is added to the Business and  
2 Professions Code, to read:

3 9787.2. A crematory shall at all times employ a licensed  
4 crematory manager to manage, supervise, and direct its  
5 operations.

6 (a) Every crematory shall designate a licensed crematory  
7 manager to manage the crematory, and shall report the designation  
8 to the bureau within 10 days of the effective date. Any change in  
9 the designated manager shall be reported to the bureau within 10  
10 days.

11 (b) The designated crematory manager shall be responsible for  
12 exercising direct supervision and control over the operations,  
13 employees, and agents of the crematory as is necessary to ensure  
14 full compliance with the applicable provisions of the Business and  
15 Professions Code, the Health and Safety Code, and any regulations  
16 adopted thereto. Failure of the designated crematory manager or  
17 the licensed crematory to exercise that supervision or control shall  
18 constitute a ground for disciplinary action.

19 (c) A crematory may employ, in addition to the designated  
20 crematory manager, additional licensed crematory managers.  
21 However, only one licensed crematory manager may be appointed  
22 as the designated crematory manager of the crematory.

23 SEC. 22. Section 9787.3 is added to the Business and  
24 Professions Code, to read:

25 9787.3. (a) Application for a crematory manager license  
26 shall be made in writing on the form provided by the bureau,  
27 verified by the applicant and filed at the principal office of the  
28 bureau. The application shall be accompanied by the fee fixed by  
29 this chapter.

30 (b) The applicant for a crematory manager license shall be at  
31 least 18 years of age, possess a high school diploma or its  
32 equivalent, shall not have committed acts or crimes constituting  
33 grounds for denial of licensure under Section 480, shall  
34 demonstrate compliance with the training and experience  
35 requirements established by the bureau, and shall be a resident of  
36 this state.

37 (c) The bureau shall grant a crematory manager license to any  
38 applicant who meets the requirements of this chapter and who has  
39 successfully passed the crematory manager examination  
40 administered by the bureau.

(d) Notwithstanding subdivision (c), until July 1, 2004, the bureau shall grant a crematory manager license to any applicant who meets the requirements of this chapter and can demonstrate that he or she has, prior to January 1, 2003, successfully passed the crematory manager examination administered by the bureau. Any person who is eligible to obtain a crematory manager license under this subdivision and who does not apply for a license by July 1, 2004, shall apply for and successfully pass the examination.

SEC. 23. Section 9787.4 is added to the Business and Professions Code, to read:

9787.4. (a) No person shall engage in or conduct, or hold himself or herself out as engaging in or conducting, the activities of a crematory manager without holding a valid, unexpired crematory manager license issued by the bureau.

(b) No licensed crematory manager shall engage in or conduct, or hold himself or herself out as engaging in or conducting, the activities of a crematory manager without being employed by, or without being a sole proprietor, partner, or corporate officer of, a licensed crematory.

SEC. 24. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.